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Defending the Right to Defend¹

Lynne Stewart

AN ACTIVIST LAWYER

Probably about twenty years ago now, the National Lawyer's Guild² had a tee shirt. The front of the tee shirt read, "Join the Conspiracy," and the back read, "The Lawyers are more Dangerous than the Bomb Throwers." I don't think the Guild is selling that tee shirt anymore, and I think you understand the reasons why.

These days, it is all too easy to be placed into a conspiracy. Clearly the Bush administration fully believes that the lawyers are more dangerous than the bomb throwers, whether they represent plaintiffs in personal injury cases or defendants in criminal cases. The Bush administration insists on streamlining the criminal justice system into a true juggernaut that moves without resistance, doing exactly what the administration thinks should be done. This varies greatly from our notions that an accused—any accused—is entitled to a lawyer that will provide her a full and vigorous defense.

When I was arrested,³ one of the reporters asked, "What is the issue here? Is it that Attorney General Ashcroft can just arrest anyone, anytime, anywhere?" And I said, "Well, that may be true, but the issue here is, when Ashcroft does this, will there be any lawyers left to call?" My case is really about the activist lawyer and whether the activist lawyer has become a detriment, an impediment, or a burr in the machine of criminal justice.

My case is about defending the right to defend. It is about the activist lawyers. And it is about the lawyers who refuse to take direction from the government as to how a case shall be conducted—the lawyers who listen instead to their clients. An activist lawyer represents not just a human being with a given history, but also a politic the client needs to preserve as part of her defense, as part of her persona.

THE CLIENT'S STORY

I was asked to visit Sheik Omar Abdel Rahman.⁴ He is the man with the red turban who is usually pictured next to the first bombing of the World Trade Center.⁵ Most people automatically assume he is connected to this bombing; such is the power of the media today. That picture of him with his dark glasses and beard, standing next to the smoking towers, is indelible in the minds of most people. But he was never accused or convicted of that bombing. He was, however, accused of and later convicted of a different conspiracy, one that was in most part founded on the work of an informant employed simultaneously by the Federal Bureau of Investigation (FBI) and Egyptian Intelligence.⁶ The fact that there was no alleged conflict of interest here should give you pause. It is antithetical to American ideals if the United States has become the apologist for a regime such as Hosni Mubarak's⁷ in Egypt, while enlisting the FBI to protect the regime by arresting and convicting its political opponents here in the United States.

When the Sheik was first accused in 1994, Ramsay Clark⁸ asked me to visit him. The Sheik needed a lawyer. The Sheik had elected to represent himself. Everyone thought it was a bad idea for a person who does not speak English, who is blind, and who has very little familiarity with the American justice system to go pro se. The Sheik had represented himself in Egypt and had won. But this is not Egypt.

So, I went down to see the Sheik, came back, and said to Ramsay, "I can't do this case." He asked, "Why?" And I responded, "Because I am a preparation freak. The other lawyers have had two years to prepare this case." There were thousands of tapes. There were tapes made by the government. There were FBI reports. It took us two SUV loads to move everything from the other lawyer to me. I could not possibly be ready in six weeks because when I go into a case, I have to know more than the government knows. I have to know the case so well that there are no surprises and so I am not playing catch-up every night as I prepare.

So, I said to Ramsay, “I just can’t do it. It’s impossible.” Then I learned why a person becomes the Attorney General of the United States. Ramsay sat me down and said, “Lynne, when you see a baby in a burning house, you can’t say, ‘I don’t have my fireman’s boots, I don’t have my fireman’s hat.’ You just have to rush in there and save the baby, regardless of what you think, because you are the best person to do it.”

After about three or four hours of similar arguments, I agreed to take on the case. I tried it for ten months, then waited for the outcome. The Sheik was convicted. He was ultimately sentenced to sixty-five years plus life. The Sheik is an elderly, blind man who speaks no English. He was first sent to Springfield Medical Facility, then later to Rochester Medical Facility in Minnesota. About a year after the trial, regulations called Special Administrative Measures (SAMs) were imposed on the case.⁹ SAMs are basically prison regulations, but the way the government used the SAMs against the Sheik was unparalleled.¹⁰

The Sheik was allowed one phone call a week to his lawyer and one phone call a month to his family. No visitors were allowed, except blood relatives who lived in Egypt and could not get visas to come to the United States. The Sheik was not allowed a radio of any kind, even though Rochester has an Arabic news radio station. Not Al-Jazeera, but pre-Al-Jazeera.¹¹ Of course, the Sheik could not receive mail because he was blind and unable to read it. He received audiotapes, but they had to be screened by the FBI with delays usually up to six months. He was not allowed to mix or mingle with fellow inmates. He was not allowed to go to prayers on Friday, as is recommended by his Muslim faith. Except for contact with his lawyer, he was in essence totally isolated, buried in the middle of Minnesota.

THE LAWYER'S STORY

I was arrested about a year ago today. On the day of my arrest, the Sheik was still residing in the Minnesota facility. In New York, my husband, Ralph Poynter, and I were in our usual mad rush to get out of the house in the morning. “Do I have this? Do I have that? Go back upstairs and pick up this.” I heard Ralph talking out in our front yard. We live in Brooklyn. Houses in Brooklyn have stoops in front where city people sit outside in the summertime and watch the world go by. But on that morning, Ralph was standing on the stoop, and in the front yard there were about six or seven law enforcement officers. I immediately knew they were law enforcement—you cannot do criminal defense work for thirty years and not be able to spot a cop when you see one.

I heard Ralph say, “I don’t see a warrant. I don’t see anything that looks like a badge to me.” Because Ralph has been known to get arrested at a PTA meeting, I thought, “uh-oh.” I moved to the stoop, and said, “Ralph, Ralph, don’t make it worse. Calm down, we’ll have you out by lunchtime.” At this point, an FBI agent turned and said, “We’re not here for him. We’re here for you.” Well, I tell you, I was flabbergasted that morning. I was flabbergasted and later very angry, because I knew that I had done nothing. I knew I was innocent.

I was so angry that when I got in front of the judge it didn’t seem enough to me to just murmur “not guilty” in the way an openly repentant defendant usually does, and so I said emphatically, “NOT GUILTY.” One of the miscalculations Attorney General Ashcroft made was that you cannot practice law in New York City for thirty years without gaining colleagues, friends, and associates, who have seen you in court, co-counseled with you, discussed cases, or shared endless hours in the attorney visiting room. When we went to court that day, the courtroom was filled with lawyers; some wearing Rolexes, some dressed in Armani, and others wearing

corduroy pants and pullover sweaters. The support was really overwhelming. At least five people came up to Ralph and said, “She’s not staying in jail, not even for one night. I have whatever it takes to get her out.”

Now I come to the charges. I was already indicted on the day I was arrested, and the indictment was for conspiracy to materially aid a terrorist organization and materially aiding a terrorist organization.¹² I am also accused of misleading—although I am not exactly sure who I was accused of misleading—because I gave out a medical report.¹³

Conspiracy to Materially Aid a Terrorist Organization

I would first like to discuss the most serious charge against me because I think it’s the one we have to pay attention to the most. The press release that I made became the focal subject of this indictment. In the spring of 2000, I visited the Sheik in Rochester, Minnesota. An interpreter was also there, who is now indicted as well.¹⁴ On that visit, the Sheik asked if we would put out a press release for him. The press release dealt with a group he had played a formative role in, more than ten years ago while he was living in Egypt.

In the press release the Sheik admits he is in the middle of Minnesota, he gets no Arabic news except what is read to him over the telephone once a week, and he does not really know what the situation in Egypt is like today. However, the Sheik suggests people ought to re-examine whether or not the truce with Mubarak is being lived up to. The Sheik notes that while he does not have access to any real information, he believes the cease-fire has not brought about any real change in Egypt.¹⁵ The jails are full. Torture continues. And people are being arrested daily and tried in front of military tribunals. The Sheik states that he does not believe the cease-fire should be broken, but that there should be some earnest discussion about whether or not it is efficient.

The Mubarak Regime is one of the most repressive in the Middle East. Human Rights Watch and Amnesty International cite it for the atrociousness of the torture and for the jails that are filled with political dissidents.¹⁶ Each one of these facts is documented by our own State Department, which in its annual report stated that Egypt could never be changed by democratic means.¹⁷ Hosni Mubarak, the president of Egypt, is regularly seen draped about our presidents at Camp David. He is a one-man show. Egypt hasn't had an election in 20 years, except those in which Mubarak was the only candidate. Second only to Israel, Egypt receives more aid from the United States than any other country.¹⁸ Mubarak now has a private island in the middle of the Mediterranean where, like all "good" dictators, he will undoubtedly escape to someday. He is not unlike Mobutu, who stole everything from the Congo and then ran to Switzerland.¹⁹

The Sheik has been Mubarak's opponent for many, many years. I do not advocate an Islamic state or Islamism, but I do advocate for the people's right to self-determination. The Egyptians have a right, just as Americans had a right in 1776²⁰ and 1787,²¹ to decide for themselves under what kind of government they want to live. It should not be lost on you that Americans chose a government under which Blacks were not considered people and women did not vote until 1920. That was what we wanted. Therefore, I do not think, as Americans, we have the right to look down on other forms of government.

Before his arrest, the Sheik had been a player on the world stage, and he was still highly respected as a truthteller in his own country and throughout the whole Middle East. Therefore, this press release created a tremendous response in the Egyptian press. It was not a call to arms on his part; after all, the Sheik had been out of the country for almost fourteen years. The Egyptian press reported on the press release for a couple of days, then it all died down. It was never reported in the United States or in the world press.

I made an open press release to Reuters.²² I did not carry it out hidden inside my bra. I called Reuters up and said, “This is what the Sheik would like to release to you.” They asked, “Do you have any comment?” I responded, “No, I have no comment. These are his words. This is what he would like to be released.” Two months later, the U.S. Attorney in charge of terrorism in the Southern District of New York gave me a call and said, “Lynne, you spoke to the press. Under the SAMs you’re not allowed to speak to the press.” I said to him, “In my view, the First Amendment trumps prison regulations.”

This afternoon some law students asked me whether his words could have been a coded message that gave directions to the Sheik’s followers in Egypt. Even in the most paranoid and fertile imagination of the Justice and State Departments, it is very hard to see how the press release could have been a coded communication and what it might have meant. Even if it did mean something, John Ashcroft answered that question two years later at the press conference held at Ground Zero, the same day they were clicking the cuffs on me. The press asked, “What happened after she made the press release?” Ashcroft tossed off, “Oh, nothing. Nothing happened.”

The night of my arrest, Ashcroft appeared on the David Letterman show.²³ I don’t think anything can parallel an attorney general going on a national talk show at eleven o’clock at night, which is mainly reserved for humor and entertainment, to talk about a pending case, and to sing a song that he wrote called “Screaming Eagles.” Ashcroft then proceeded to cheerlead the crowd into supporting his wonderful work fighting terrorism by arresting the terrorist grandma from Brooklyn.

I know very well that John Ashcroft did not arrest me because he went to the Brooklyn phone book and said, “Let’s pick out a nice grandma to arrest.” I have proudly been in the movement for forty years. I marched against Vietnam. I fought for community control of schools. By the end of the ‘60s, I felt that law school was the place to be, and after the birth of my third child, I went to law school at Rutgers. When I walked into law school,

I thought I knew everything. I thought I would get my degree, then go do my thing. Then I met Arthur Kinoy, one of the most renowned constitutional scholars in this country.²⁴ Arthur spoke to my first year class, and after his speech, I was uplifted. I wanted to go out there to fight the good fight.

Materially Aiding a Terrorist Organization

I was also charged with aiding a terrorist organization. I would like you to be mindful as lawyers of how a terrorist organization is designated. The Secretary of State recommends and then lists organizations that are deemed “terrorists.”²⁵ The trouble with this is that when you are accused of aiding a terrorist organization, you are not permitted to litigate whether it is, or is not, a “terrorist” organization. It’s a given. If the government says it is a terrorist organization, then it is.

The problem with this process is that fashions change in government. What was terrorist activity twenty years ago is no longer terrorist activity today. Let us go back to 1983. In those days, you would have received a warm embrace and a pat on the head for helping Saddam Hussein, our great friend, to whom we were selling arms and inciting to wage war against Iran. If I had carried a message on behalf of Nelson Mandela, I would be in the same position as I am today, because twenty years ago, the African National Congress (ANC) was on the terrorist list.²⁶ The government can decide what is or is not a terrorist organization, based only upon its narrow, politically motivated view of what it thinks is good for the country. The process of determining what is a terrorist organization is like shifting sand.

The materially aiding charge has been used against many, many people. For example, it has been used against a professor from Tampa who wrote checks to his mosque twenty years ago.²⁷ As you can see, materially aiding a terrorist organization is a catchall charge. One of the leaders of the Center for Constitutional Rights wondered whether his work could have been considered materially aiding terrorists when he brought a writ to release

detainees. Giving the detainees the benefit of professional advice, getting them out of jail, bringing them home—was that materially aiding a terrorist organization? Who could tell?

ATTORNEY CLIENT PRIVILEGE AND THE RIGHT TO COUNSEL

The reason I can be here today and stand in front of you is because I am certain of my own innocence. I have worked for thirty years in the same manner for every client I have represented, from the Black Panthers when they were underground,²⁸ who were extremely unpopular at the time they were arrested, to Sheik Omar. I believe the foundation of all of my work was, and is, the attorney-client privilege.

We learned on the first day of my arrest that the charges were based in part upon the fact that the attorney-client consultation room in Rochester had been bugged. The government had been using an audio mike and a video camera to monitor the Sheik after his case was settled. For about eight or nine months after the indictment for the press release, I was not allowed to see my client. At the end of that time, we were required to sign the regulations, or SAMs, once again. We did so in good faith, assuming our visits were going to be protected and privileged. The government needed the eight months to set up the cameras and the bugs, because we now know that all of the visits from that point on were taped. We also know that they taped our phone conversations. We do not know how far back that goes.

It may be hard to understand how important privilege is. In law school, we all learn about the marital privilege and the attorney-client privilege. In New York, we also have a psychiatric privilege and a social worker privilege, because lawmakers have decided that certain conversations have the right to be private. These privileges exist because it is so important that clients be forthcoming. A person must be able to trust that not everything will be revealed simply by virtue of telling the truth to an attorney or a counselor. Clients sometimes have difficulty telling lawyers the truth about

their lives. Their information is always carefully edited, and sometimes you do not find out some important facts until you have been working on the case for months and months.

Why was that important fact not revealed? Clients want their lawyers to like them, and they are afraid their lawyers will not like them if they reveal too much. Sometimes they think a lawyer's representation would not be as hardy if the lawyer knew all. Or it just may be that clients do not want to reveal the information because they cannot come to grips with it themselves. You can be with a client for a long, long time and not know everything about him. It really is the client's choice what to tell you. But when you are in the trenches of the courtroom fighting a case, it usually becomes very apparent to the client that he needs to tell you everything because you cannot defend him blindly. This is when the attorney-client privilege—one of the bedrocks of the criminal justice system—matters most.

Here we are celebrating the fortieth anniversary of the *Gideon* decision, guaranteeing right to counsel in criminal cases.²⁹ When *Gideon* burst upon the scene, I was not yet a lawyer, but I was aware of the decision, and it was like a bombshell. What—a right to a lawyer even if you cannot afford one? It ushered in a whole series of rulings and decisions that widened the criminal justice system in what I would suggest was the right way. Now, we have an administration that is dangerously narrowing the rights of criminal defendants and the entire criminal justice system, so that convictions move through without friction. The administration calls the shots, and the lawyers, judges, and jury just salute. The criminal justice system admittedly needs an overhaul, but not an overhaul where the rights of the accused and the right to defend the accused are taken away.

WHERE DO WE GO FROM HERE?

So, as the executive branch puts the justice system more and more under its control, what are we going to do? Well, we're going to fight this case.

We're not going to give in. I feel that getting out here in front of folks like you and putting a public face on it is the right thing to do.

This was coming. This was on the horizon. This was a smoke signal to us. What do we do? Do we just sit back and let it steamroll us? Do we stand up and join with others? Do we try to talk it up? Do we mention it to people even though we think it is unmentionable because we know their politics? Do we try to bring people together through enlightenment instead of just allowing the divisiveness that's taking place? What do we do?

We are fighting this case. We are going to continue to fight this case. I have been going around and speaking against the advice of my counsel. A prosecutor, my former adversary in New York, said to me recently, "Lynne, you know you still have Fifth Amendment rights." I said, "I certainly do. But my view is that I want to speak to people." I want the opportunity for people to ask questions. I want to be out there. I do not want to hide, because I believe that this is the kind of case that will fade when exposed to sunlight. The more it fades, the better it is for all of us.

On the day I was arrested, my grandson Arthur went up to his dad after all the publicity and said, "Daddy, Grandma really helped a terrorist?" Now, if Arthur, who knows me so well and loves me so much, feels that the "T" word placed on my forehead raises some questions, what about the ordinary juror inundated by media? The ordinary juror who wants to do the right thing, but is not quite sure what that is, may find it hard to set aside all that has been said about my case.

My arrest came two years after the actual act. I believe it was a result of the need to perpetuate the terrorist threat in America—the idea that people should get in line and obey the government because terrorists are after us. I tell you now as I have told myself and anyone who cared to listen in the intervening year: I've committed no crime. I have vigorously defended a client. This case is not about me, or my personality, or my politics. This case is about our right to defend people in the way we have always defended them, and to try only to make the system better.

¹ This article is adapted from a speech Ms. Stewart gave at Seattle University School of Law on April 22, 2003.

² The National Lawyers Guild is an association made up of lawyers, law students, and legal workers, who are dedicated to the need for basic change in the structure of our political and economic system. The Guild aims to unite these groups and work as an effective political and social force in the service of the people. See National Lawyer's Guild website at <http://www.nlg.org> (last visited Nov. 10, 2003).

³ Lynne Stewart was arrested and indicted on April 9, 2002. Steve Fainaru and Brooke A. Masters, *Attorney Accused of Passing Terrorist Messages*, N.Y. TIMES, Apr. 10, 2002, at A1. The charges against her were conspiracy to provide material support to a foreign terrorist organization, providing material support to a foreign terrorist organization, conspiracy to defraud the United States, and making false charges. Indictment against Lynne Stewart at 8-19, *United States v. Sattar* (S.D.N.Y. 2002) (No. 02 Cr. 395).

⁴ Omar Ahmad Ali Abdel Rahman, a/k/a "Omar Ahmed Ali," a/k/a "Omar Abdel Al-Rahman," a/k/a "The Sheik," a.k.a "Sheik Omar," is the spiritual leader of the Gama'a al-Islamiyya or Islamic Group (IG), "an international terrorist group dedicated to opposing nations, governments, institutions, and individuals that [do] not share IG's radical interpretation of Islamic law." *United States v. Sattar*, 272 F. Supp. 2d 348, 353 (S.D.N.Y. 2003).

⁵ The bombing of the World Trade Center, for which the Sheik was accused and subsequently convicted, occurred on February 26, 1993. Ralph Blumenthal, *Explosion at the Twin Towers: The Investigation; Bomb is Definite Answer, But all Else Is Mystery*, N.Y. TIMES, Feb. 28, 1993, at A34.

⁶ "Sheikh Abdel Rahman was convicted in October 1995 of engaging in a seditious conspiracy to wage a war of urban terrorism against the United States, including the 1993 World Trade Center bombing and a plot to bomb New York City landmarks." *Sattar*, 272 F. Supp. 2d at 354.

⁷ Sheik Abdel Rahman "was also found guilty of soliciting crimes of violence against the United States military and Egyptian President Hosni Mubarak." *Id.*

⁸ Ramsay Clark served as Attorney General of the United States under President Lyndon Johnson's Administration. Peter Worthington, *Over the Hill: Dan Rather Looked Old and Scared Interviewing Saddam*, TORONTO SUN, Feb. 28, 2003, at 47.

⁹ SAMs are Special Administrative Measures promulgated by the Bureau of Prisons. They are suggested by the Department of Justice, Department of State, or sometimes the CIA in order to prevent acts of violence or terrorism on the part of the prisoner. 28 C.F.R. § 501.3 (2003). In the Sheik's case, the SAMs were imposed under the direction of the attorney general. Indictment against Lynne Stewart at 3, *Sattar* (No. 02 Cr. 395).

¹⁰ There have been other political prisoners who have been subject to these regulations. One of them was Leonard Peltier, a Sioux Indian who was convicted of murdering an FBI agent. Bill Kunstler argued Peltier's case on appeal about twenty times but has never managed to have it reversed. Following a five-week jury trial, the district court sentenced Leonard Peltier to two consecutive life terms in prison for the first-degree murder of two FBI agents. See *United States v. Peltier*, 585 F.2d 314 (8th Cir. 1978), *cert. denied*, 440 U.S. 945 (1979). In an interview with *Revolutionary Worker*, Lynne Stewart discusses the differences between the SAMs placed on Sheik Rahman and those placed on Leonard

Peltier—namely that the SAMs placed on Peltier were more limited in scope than those used against the Sheik. See Revolutionary Worker #1162, Lynne Stewart: Lawyer Under Fire (Aug. 11, 2002), at <http://rwor.org/a/v24/1161-1170/1162/lynnestewart.htm> (last visited Nov. 16, 2003).

¹¹ Al Jazeera is an uncensored, independent, non-government-controlled Arabic news agency providing news and information to the Arabic world. It was launched in November 1996. See About Al Jazeera, at <http://english.aljazeera.net/NR/exeres/5D7F956E-6B52-46D9-8D17-448856D01CDB.htm> (last visited Nov. 15, 2003).

¹² Lynne Stewart, her translator Mohammed Yousry, and Ahmed Abdel Sattar, an ally to the sheik, were originally indicted on three counts for: providing material support to terrorists in violation of 18 U.S.C. § 2339A (2003); providing material support to terrorist organizations in violation of 18 U.S.C. § 2339B (2003); and conspiring to commit offense or defraud the United States in violation of 18 U.S.C. § 371 (2003). Indictment against Lynne Stewart, United States v. Sattar (S.D.N.Y. 2002) (No. 02 Cr. 395). The government alleged the three had provided “communications equipment” (phones and faxes) and “personnel” (themselves and each other) to the sheik’s organization, Islamic Group, which is a designated terrorist organization. On July 22, 2003, the charges of conspiracy to materially aid a terrorist organization and materially aiding a terrorist organization were dismissed. United States v. Sattar, 272 F. Supp. 2d 348. However, on Nov. 19, 2003, Attorney General Ashcroft announced a reframed indictment, charging Stewart and her co-defendants with new charges. The government dropped the § 2339B charge but reframed the § 2339A charge, alleging Stewart had facilitated forbidden communication between the sheik and his followers. Superseding Indictment against Lynne Stewart at 8-19, United States v. Sattar (S.D.N.Y. 2003) (No. 02 Cr. 395), at <http://www.lynnestewart.org/IndictmentSuperseding.pdf>. Specifically, the indictment alleges that “Stewart and Yousry ‘provided’ and ‘concealed’ [the sheik’s aide] as ‘personnel’ to a conspiracy to kill and kidnap people outside the United States.” See Mark Hamblett, *New Charges Lodged Against Lynne Stewart*, NEW YORK L. J., Nov. 20, 2003; Adam Liptak, *The World: Defending Those Who Defend Terrorists*, N.Y. TIMES, July 27, 2003, at A4. At the time of this Journal’s publication, Stewart’s trial date is set for January 2004, but the new charges raise the possibility the trial will be postponed.

¹³ Under the charge of conspiracy to provide material support to the IG, the government accused Stewart of misrepresentation because she allegedly conspired with codefendant Ahmed Sattar to issue a public statement falsely claiming that the Bureau of Prisons was denying medical treatment to the Sheik. According to the government’s indictment, the Sheik was voluntarily refusing to take insulin for his diabetes. Indictment against Lynne Stewart at 15, *Sattar* (No. 02 Cr. 395).

¹⁴ As Lynne Stewart’s case foreshadowed, the government is targeting interpreters who have been hired to translate for terrorists. The recent arrests at the American prison camp in Guantanamo Bay, Cuba, have included two Arabic-language translators: Air Force Senior Airman Ahmad I. al-Halabi was arrested on July 23, 2003, and faces an array of charges, including espionage and aiding the enemy. Contract employee Ahmed Fathy Mehalba was charged with making false statements to authorities after he was arrested on September 30, 2003. See Richard A. Serrano, *Third Arrest of Staffer at Guantanamo*, L.A. TIMES, Oct. 1, 2003, part 1, at 9. In addition, Army Capt. James Joseph Yee, a

chaplain, was charged with two counts of disobeying orders on October 10, 2003, because of allegedly taking classified material home and transporting it without using proper security containers or covers on the documents. See Richard A. Serrano, *U.S. Prison Camp Has a Key Flaw*, L.A. TIMES, Oct. 13, 2003, part 1, at 1.

¹⁵ A cease-fire was declared in 1997 by both Islamic Jihad and Gama'a al-Islamiyya, also known as the Islamic Group or IG, after Egyptian President Hosni Mubarak used repressive measures to stop the extremists groups' violence against security forces, foreign tourists, and Coptic Christians. See Scott Peterson, *Rifts in Islamic World Deepen*, CHRISTIAN SCIENCE MONITOR, Sept. 21, 1998, at 1.

¹⁶ See Press Release, Human Rights Watch, Egypt: Government Contempt for Basic Political Rights (Aug. 28, 2003), at <http://hrw.org/press/2003/08/egypt082803.htm> (last visited Nov. 15, 2003); Amnesty International, Egypt: Torture remains rife as cries for justice go unheeded (Feb. 28, 2001), at <http://web.amnesty.org/library/print/ENGMDE120012001> (last visited Nov. 15, 2003).

¹⁷ See U.S. DEPT. OF STATE, EGYPT: COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES 2001 (2002), at <http://www.state.gov/g/drl/rls/hrrpt/2001/nea/8248pf.htm> (last visited Nov. 15, 2003).

¹⁸ Egypt receives approximately \$1.9 billion annually in U.S. foreign aid, while Israel receives the most aid at approximately \$2.7 billion a year. Press Release, State Dep't, House-Senate Compromise Slashes Millennium Challenge Account Money (Nov. 18, 2003) available at 2003 WL 64738968. With President Bush signing into law a \$87.5 billion foreign aid package to Iraq and Afghanistan on November 6, 2003, however, these countries no longer receive the highest amount of foreign aid from the United States. See 117 Stat. 1209 (2003), see also Press Release, State Dep't, Treasury's Taylor Says Goal is to Complete Projects by June Elections (Nov. 10, 2003) available at 2003 WL 64738749.

¹⁹ Mobutu Sese Seko was the President of the Democratic Republic of the Congo from 1961 to 1964. In 1964, he was dismissed from the Congo presidency by the Kasavubu government. In 1971, Mobutu regained power by a coup. Mobutu remained the President of the Democratic Republic of the Congo until 1997, when he fled to Togo after the Alliance of Democratic Forces for Liberation (ADFL) seized Congo territory after a seven-month campaign against Mobutu's rule. Mobutu died in September 1997, while in Morocco. *Democratic Republic of Congo: Country Profile*, Janet Matthews Information Services, Quest Economics Database, Afr. Rev. World Info., Sept. 26, 2002, at 1.

²⁰ In 1776, the Declaration of Independence was signed. The Declaration outlined why the original colonies were fighting for their independence from Great Britain and what the new nation would stand for. SAMUEL ELIOT MORISON ET AL., *THE GROWTH OF THE AMERICAN REPUBLIC* 172-73 (7th ed. 1980).

²¹ In 1787, the Federal Convention convened and the United States Constitution was drafted and signed. *Id.* at 244, 250.

²² Reuters is a global information company providing information for financial services, media, and corporate markets. Best known as the world's largest international multi-media news agency, Reuters has an Arabic news service that was used to disseminate the Sheik's press release. See About Reuters, at <http://about.reuters.com/aboutus/overview> (last visited Nov. 13, 2003).

²³ The David Letterman Show was able to obtain a copy of a clip in which Attorney General John Ashcroft sang, “Let the Eagle Soar,” while at the Gordon-Conwell Theological Seminary in North Carolina. After showing the clip several times on the Letterman show, Ashcroft agreed to appear on the late night entertainment talk show during a planned trip to Ground Zero. While a Senator in Missouri, Ashcroft was a part of a group of singing politicians called the “Singing Senators.” Richard Huff, *Letterman Gag Pays Off: Ashcroft Booked*, DAILY NEWS, (New York), Apr. 4, 2002, at 97.

²⁴ Arthur Kinoy, a progressive, “people’s” lawyer and founder of the Center for Constitutional Rights (CCR), was also a longtime Professor of Law at Rutgers University School of Law. Kinoy worked as a lawyer for the United Electrical Workers Union during the McCarthy era and helped to represent Julius and Ethel Rosenberg. He also worked on many civil rights cases in the South during the 1950s. Kinoy was very active with the National Lawyers Guild and served a term as national president of the organization. In 1966, with the help of other progressive lawyers, Kinoy founded CCR, an organization dedicated to protecting and advancing the rights guaranteed by the United States Constitution and the Universal Declaration of Human Rights. He died on September 19, 2003. See CCR Mourns the Loss of Arthur Kinoy, at <http://www.ccr-ny.org/v2/reports/report.asp?ObjID=ufGHtA8mEM&Content=290> (last visited Nov. 10, 2003). Lynne Stewart received her J.D. from Rutgers University School of Law. See Who is Lynne Stewart?, at <http://www.lynnestewart.org/bio.html> (last visited Nov. 10, 2003).

²⁵ The Secretary of State has the authority to designate foreign terrorist organizations. See 8 U.S.C. § 1189 (2003). In this case, the IG was designated as a foreign terrorist organization in 1997, and redesignated as such in 1999 and 2001. Indictment against Lynne Stewart at 8-9, *Sattar* (No. 02 Cr. 395).

²⁶ Born on July 18, 1918, in 1944, Nelson Mandela joined the anti-apartheid African National Congress (ANC). The ANC’s political message was national emancipation and a tradition in constitutionalism. Mandela was known for organizing resistance to discriminatory and unjust legislation. He was convicted of contravening the Suppression of Communism Act after launching a Defiance Campaign against unjust laws. From 1956–1961, Mr. Mandela was tried and acquitted on charges of treason. From 1962–1990, he was imprisoned for advocating sabotage. In 1991, a year after his release from prison, Mr. Mandela became the President of the ANC. In 1993, he received the Nobel Peace Prize, and in 1994, he was elected President of South Africa. See <http://www.anc.org.za/people/mandela.html> (last visited Nov. 10, 2003).

²⁷ Sami Al Arian, a former computer science professor at the University of Southern Florida, was indicted on charges of supporting terrorism by allegedly supporting the Palestinian Islamic Jihad by helping finance and organize suicide bombings in Israel’s occupied territories. See Eric Lichtblau & Judith Miller, *Threats and Responses: The Professor—Officials Say Case Against Professor Had Been Hindered*, N.Y. TIMES, Feb. 22, 2003, at A10.

²⁸ See Geraldine Baum, *Circling the Legal Wagons: When attorney Lynne Stewart was charged with aiding terrorists, New York lawyers of all stripes came to her aid*, L.A. TIMES, July 27, 2002, part 1, at 1.

²⁹ *Gideon v. Wainwright*, 372 U.S. 335 (1963). Clarence Earl Gideon was charged with a felony in a Florida State court for breaking and entering into a poolroom. Gideon asked the court to appoint counsel for him; however, the request was denied because indigent defendants were only appointed counsel for capital offenses. Gideon was convicted and sentenced to five years in prison. Gideon challenged the conviction and sentence on the ground that his rights under the U.S. Constitution had been violated. The U.S. Supreme Court held that the Sixth Amendment provides that an accused has the right to counsel in all criminal prosecutions. Because this right to counsel is fundamental and essential to fair trials, it is made obligatory on the states by the Fourteenth Amendment.